

DEC 26 2006

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

In the Official Action, the Examiner objects to the Abstract because it is longer than 150 words. In response, the Abstract has been amended to reduce the word count to below 150 words (90 words). In view of the above, it is respectfully requested that the objection to the Abstract be withdrawn. A clean copy of the amended Abstract is provided on a separate sheet for the convenience of the Examiner.

In the Official Action, the Examiner rejects claims 1, 10 and 11 under 35 U.S.C. §§ 101 and 112, second paragraph, because they merely recite a use without any active, positive steps delimiting how the use is actually practiced. In response, claims 1, 10 and 11 have been amended to clarify that the degree of similarity is calculated by evaluating the difference in the acquired feature values. Accordingly, it is requested that the rejection of claims 1, 10 and 11 under 35 U.S.C. §§ 101 and 112, second paragraph be withdrawn.

In the Official Action, the Examiner also rejects claims 10 and 11 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. The Examiner argues that claims 10 and 11 recite systems without any tangible means to embody the system and requires an appropriate embodiment of the system claims (e.g., computer processor, storage and display).

Applicants disagree with the Examiner's assertions because claim 10 recites a database and various sections, such as a degree-of-similarity computing section, the function(s) of which could be carried out by a processor as would be understood by those of ordinary skill in the art from a reading of the specification including the Figures. Similarly, claim 11 recites a database and various means a degree-of-similarity computing means, the

function(s) of which could be carried out by a processor as would be understood by those of ordinary skill in the art from a reading of the specification including the Figures. However, in the interests of advancing prosecution, claims 10 and 11 now include a display section and means, respectively, and clarifications for tangible embodiment of the systems recited therein.

In the Official Action, the Examiner rejects claims 1-6, 10 and 11 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0004710 to Murao (hereinafter "Murao"). Furthermore, the Examiner rejects claims 7-9 under 35 U.S.C. § 103(a) as being unpatentable over Murao in view of ACM Article "Topology Matching For Fully Automatic Similarity Estimation of 3D Shapes" by Hilaga et al., (hereinafter "Hilaga").

In response, Applicants respectfully traverse the Examiner's rejection under 35 U.S.C. §§ 102(b) and 103(a) for at least the reasons set forth below. However, independent claims 1, 10 and 11 have been amended to clarify their distinguishing features. The dependent claims have been amended, where necessary, to be consistent with amended claim 1. Furthermore, claims 3, 5 and 7-9 have been canceled.

Applicants respectfully submit that Murao and Hilaga fail to disclose or suggest a 3D model having a hierarchial structure made of subelements corresponding to a unit in human recognition. Further, they do not disclose or suggest changing the hierarchy that is specified in the 3D model.

With regard to the rejection of claims 1-6, 10 and 11 under 35 U.S.C. § 102(b), a 3D model retrieval method and system having the features discussed above and as recited in independent claims 1, 10 and 11, is nowhere disclosed in Murao. Since it has been decided that "anticipation requires the presence in a single prior art reference, disclosure of each and

every element of the claimed invention, arranged as in the claim,"¹ independent claims 1, 10 and 11 are not anticipated by Murao. Accordingly, independent claims 1, 10 and 11 patentably distinguish over Murao and are allowable. Claims 2, 4 and 6 being dependent upon claim 1 are thus at least allowable therewith (claims 3 and 5 being canceled). Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 1-6, 10 and 11 under 35 U.S.C. § 102(b).

With regard to the rejection of claims 7-9 under 35 U.S.C. § 103(a), as discussed above, the same have been canceled thereby rendering the rejection thereof moot. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 7-9 under 35 U.S.C. § 103(a).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,


Thomas Spinelli
Registration No.: 39,533

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343

TS:cm
Encl. (Clean copy of Abstract)

¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).